

Key Ideas

Chapter 8: The Excessive Levy Appeal Process



In this section, we will discuss the following:

- *How to determine if you are eligible for an increase in levy.*
- *When to consider application for appeal.*
- *The appeal application process.*
- *Type of appeals.*
- *The Local Government Tax Control Board hearing.*
- *The Department of Local Government Finance final determination.*

EXCESSIVE LEVY APPEAL PROCESS

The following section describes the excessive levy appeal process for County Auditors. Before beginning, it is important to have a general understanding of what an excessive levy appeal is and how the appeal ties into the budget process. An excessive levy appeal is a request for consideration of an increase in levy for a county that is experiencing increased growth or increased operating expenses. The increase requested is above the normal maximum levy limitation in place by statute. The following outlines the excessive levy appeal process, time frame for consideration of an appeal, application to be filed and current appeals available.

Process

Any county that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may on or before September 19 of the year preceding the ensuing calendar year appeal to the Department of Local Government Finance for an increase in levy.



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A county is required to file a written petition with the Department of Local Government Finance stating that it cannot carry out the functions required by law and must supply a detailed statement outlining the need for an appeal. The Department of Local Government Finance submits the appeal petition to the Administrative Officer of the Local Government Control Board for consideration of the appeal.

The county unit may/may not be required to appear before the Local Government Tax Control Board for consideration of the appeal. The Local Government Tax Control Board reviews the petition and the financial information and makes a recommendation to the Department of Local Government Finance. The Local Government Tax Control Board is a recommending body only. The Department of Local Government Finance will make the final decision and an order will be issued to reflect the final determination.

Counties that fail to submit the required information will be denied. The county may not submit a new application until the following taxing year.

Time-frame

A county must consider application for an appeal during budget preparation. Any excessive levy appeals become part of the county's budget estimates for the ensuing calendar year. When the county prepares budget estimates for the ensuing calendar year, the amount of the excessive levy appeal to be considered by the County Council and by the Department of Local Government Finance must be included in the county's estimated levy on line 16 and budget estimate reflected on line 1 of County Form 4B. This levy figure must be inflated above your current maximum levy limitation to support consideration of an appeal. Ex. If an appeal for Operation of a New Jail is pursued and the county foresees an increase in levy of \$100,000 then the net amount to be raised on Line 16 of Form 4B should include the \$100,000 appeal to be considered by the County Council and Department of Local Government Finance plus the normal levy requested. If a County Council fails to adopt the excessive levy appeal requested, the Department of Local Government Finance may deny the request. It is the County Auditor's responsibility to advertise and adopt high enough for consideration of an appeal.



A county must consider application for an appeal during budget preparation.

Application

Each year, the Budget Division of the Department of Local Government Finance mails to each county an excessive levy appeal application that identifies the type of appeals available to the county for the ensuing calendar year. The appeal petition must be submitted directly to the Department of Local Government Finance's Budget Division, not with the Budget paperwork.

Top Section: The Auditor must complete this section, which provides the Budget Division with County Unit information. The blanks to be completed include Auditor's name, address, city/state/zip, telephone and county. The hearing notice will be mailed to the name and address listed in this section.

Middle Section: The County Auditor checks the types of excessive levy appeals under consideration. A county must select the applicable section(s) on the form. The Administrative Officer for the Local Government Tax Control Board must be able to identify which appeal the county is applying for before a hearing will be scheduled.

Second Page: This page provides a list of information that should accompany the excessive levy appeal request.

The fiscal body must specify why an appeal is necessary. This should not consist of a general statement that expenses have increased. The fiscal body should specify which costs have increased or what services cannot be provided to taxpayers. This section should support the entire need for the appeal. Additional pages can be attached if the space provided is not ample.



On page 1, the county must specify what type(s) of excessive levy appeals are being requested and why the appeal is necessary.

On page 2, a list of the information that must accompany the excessive levy appeal request is provided.

- 1) **Cost of operating courts established by the General Assembly in legislation enacted after 1973:** This appeal allows a county to capture increased costs associated with the establishment of a new court after 1973. The appeal captures the difference between the current year's budget before the court was established and the immediate preceding year after the court is in operation. The appeal is applicable one (1) time only but is considered a permanent increase to the maximum levy limitation for the county. Any unit applying for the appeal must provide a detailed breakdown of costs minus increased court related revenues during the first full year the court was in existence and the prior year costs for operating a court.
- 2) **Three-year growth factor:** A unit may qualify for this appeal if its average assessed valuation growth quotient (AVGQ) over the last three years exceeds the statewide average AVGQ by at least two percent (2%). The following example illustrates the appeal.

Step 1 Determine a unit's certified assessed valuation for the last four years:

Step 2 Calculate the assessed valuation growth for each of the last three years.

Step 3: Calculate the average assessed value growth quotient by taking the sum of the results of Step 2 and dividing by three (3).

Step 4: Determine the statewide certified assessed valuation for the last four years.

Step 5: Calculate the assessed value growth for each of the last three years.

Step 6: Calculate the average statewide-assessed value growth quotient by taking the sum of the results of Step 5 and dividing by three (3).

Step 7: Divide the Step Three amount by the Step Five amount.

Note: The Step Seven amount must be equal to or greater than 1.02 to qualify for the appeal.

The DLGF makes a determination on whether or not the unit meets the requirements for the appeal.

- 3) **Sec. 14 (a) Correction of advertising errors, mathematical errors or errors in data.** The unit simply states what type of error(s) occurred and the amount of the error that should be considered by the Control Board. The Department of Local Government Finance will review the information presented and consider the appeal. The appeal form should provide documentation that identifies the type and amount of errors made.
- 4) **Shortfall due to erroneous assessed valuation:** This appeal is applicable to all taxing units that experience a shortfall of property taxes due to erroneous assessed value or refunds due to successful appeals. The unit must state the specific cause of the shortfall and provide the following: Form 22's (Certificate of Tax Distribution) for all funds within the maximum levy, County Form 127CER (Register of Certificates of Error), and County Form 17TC (Certificate of Tax Refund Claims). Shortfall appeals without appropriate documentation may be subject to disapproval and no shortfalls will be considered for delinquent tax payments. Anticipated shortfalls based on current year distributions will not be considered unless the unit can prove extreme financial hardship. This appeal is temporary and results in an increase in levy for one year only.
- 5) **Increases in pension payments and contributions:** This appeal is for units that experience increases in pension payments and/or contributions for police. This appeal is a permanent increase to the maximum levy. This appeal is rarely filed on the county level. The amount a unit qualifies for is based upon the following calculations as demonstrated by this example:

CONTRIBUTIONS

a) Number of personnel for whom contributions were made for Ensuing Year	45
b) Number of personnel for whom contributions are to be made for Current Year	30
c) Increase in personnel [Line (a) minus Line (b)]	15
d) Ensuing year contributions	\$315,000
e) Current year contributions	\$210,000
f) Increase in contributions [(d) – (e)]	\$105,000

PENSION PAYMENTS

g) Ensuing year appropriations for pension payments	\$420,000
h) Current year appropriations for pension payments	\$380,000
i) Increase in pension payments [(g) – (h)]	\$ 40,000
j) Number anticipated to receive benefits for ensuing year	16
k) Number receiving benefits during calendar year	12

APPEAL CALCULATIONS

l) Total contributions and payments current year [(e) + (h)]	\$590,000
m) Multiply line (l) by 1.1	\$649,000
n) Total contributions and payments for ensuing year [(d) + (g)]	\$695,000
o) Amount to be considered for levy increase [(n) – (m)]	\$ 46,000



This appeal is for a county that experience increases in pension payments and/or contributions for police and/or fire fighters.

- 6) **Hazardous Waste Removal (up to \$.0667):** This appeal is necessary to provide removal and remedial action relating to hazardous substances in solid waste disposal facilities or industrial sites in the civil taxing unit that are considered a menace to the public health and welfare. The appeal is restricted to certain areas: a county with a population of greater than one hundred twenty nine thousand (129,000) but less than one hundred thirty six thousand (136,000); a city with a population of more than forty-three thousand seven hundred (43,700) but less than forty-four thousand (44,000); a city with a population of more than twenty-five thousand five hundred (25,500) but less than twenty six thousand (26,000); a city with a population of more than fifteen thousand three hundred fifty (15,350) but less than fifteen thousand five hundred seventy (15,570); and a city with a population of more than five thousand six hundred fifty (5,650) and less than five thousand seven hundred eight (5,708). The maximum amount of this appeal is up to \$.0667 for each \$100 of assessed value and the increased tax rate may be imposed for only two calendar years.

Documentation Required for All Appeal Types

For consideration before the Local Government Tax Control Board, all excessive levy appeal requests must include the following information in addition to the type of information required for the type of appeal under consideration:

- Report of Appealing Unit.
- Ensuing year maximum levy sheet for funds under appeal.
- Ensuing year budget proof of publication.
- Estimate of Miscellaneous Revenue (Budget Form 2) for all funds.
- "16-Line" Financial Statement (Budget Form 4B) for all funds.
- Resolution from fiscal body approving the excessive levy appeal.
- Eight (8) copies of all of the above.

Recommendation by Control Board

The Control Board reviews the appeal information and ensures proper procedures have been followed. The Control Board makes a **recommendation** to the Department of Local Government Finance approving, reducing, or disallowing an appeal request. It is important to understand that the Control Board is a recommending body only. The Department of Local Government Finance will make a decision based on the information presented and testimony given at the hearing. An order will be issued reflecting the final decision of the Department of Local Government Finance.



The Control Board makes a recommendation to the DLGF approving, reducing, or disallowing an excessive levy appeal request. It is important to understand that the Control Board is a recommending body only.

Additional Levy

If the Department of Local Government Finance approves an excessive levy appeal for your county, the amount will be “worked” in prior to certification of budgets, tax rates and tax levies for the county.

Summary

Chapter 8: The Excessive Levy Appeal Process



In this section, we have discussed the following:

- *Any county that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute may, on or before September 19 of the year preceding the ensuing calendar year, appeal to the Department of Local Government Finance for an increase in levy.*
- *A county must consider application for an appeal during budget preparation.*
- *The county must specify why an appeal is necessary.*
- *The county must indicate what type of appeal (statutory relief) is being requested.*
- *The Control Board makes a recommendation to the Department approving, reducing, or disapproving an appeal request.*
- *Excessive levy appeals may be a temporary or permanent increase to a unit's maximum levy limitation.*